

EEO Investigation Case File
Murphy A. Junaid v Dept of the Army
ARCCAD08DEC05742

11

1 will go from there.

2 MURPHY ALADE JUNAID,

3 the witness, having been duly sworn, testified as
4 follows:

5 E X A M I N A T I O N

6 BY INVESTIGATOR LINDA KIRKSEY:

7 Q. Please state your full name for the record.

8 A. Murphy Junaid.

9 Q. Do you have a middle name?

10 A. A-L-A-D-E.

11 Q. And, sir, you are aware that your testimony is
12 being recorded and it is being given without a pledge of
13 confidentiality?

14 A. Correct.

15 Q. You've had an opportunity to review the Privacy
16 Act. Do you have any concerns about your rights in this
17 process?

18 A. No, I don't.

19 Q. Ms. Gaul is your personal representative?

20 A. Yes.

21 Q. Are you okay with continuing?

22 A. Correct.

23 Q. Tell me what your current position title,
24 series and grade are.

25 A. I'm an Industrial Engineer GS-12 Step 6.

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1 Q. And my records seem to reflect that you are in
2 series 0896. Is that correct?

3 A. 0896, correct.

4 Q. And what organization are you currently
5 assigned to?

6 A. I work at the Corpus Christi Army Depot,
7 Industrial Engineering Division.

8 Q. Now, is that part of the Directorate of
9 Engineering Services?

10 A. Correct.

11 Q. And how long have you been employed in your
12 current position?

13 A. Thirteen years.

14 REPORTER: How long?

15 THE WITNESS: Thirteen.

16 A. Are you asking at CCAD or in the Government?
17 Which one?

18 Q. (BY INVESTIGATOR) In your current position as
19 an industrial engineer at CCAD.

20 A. Nine years.

21 Q. Nine years?

22 A. Yes.

23 REPORTER: Can you speak up --

24 THE WITNESS: Nine years.

25 REPORTER: -- just a little bit more or --

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1 Q. Yeah. What is your relationship to Mr. Howe?

2 A. Ron Howe was selected to be a temporary IED
3 Chief when the current IED Chief, Kelly Jackson, moved
4 to another Agency. So, when Ron Howe was acting
5 temporarily, he acted for almost like eight months.
6 When his time elapsed at the end of July, Mr. Hogg took
7 over on August 3rd, which is Monday, but Mr. Hogg was
8 not present the 3rd, 4th, 5th.

9 And the 6th is when that incident
10 happened. Mr. Ron Howe was not a member of the IED
11 staff any longer when he came back to our meeting.

12 Q. And where did he go back to?

13 A. Went back to under Mr. Kresten Cook.

14 Q. All right. Let's talk about what happened.
15 You were proposed for suspension for 30 days. Is that
16 correct?

17 A. Correct.

18 Q. And when I look at the "Proposal" letter, it
19 appears that there were basically two charges: One was
20 that you created a disturbance, and the other was that
21 you were insubordinate.

22 A. Yes.

23 Q. We are going to talk about those separately.
24 Let's talk about creating a disturbance. We started
25 talking a little bit about what happened on August 6;

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1 "His voice is threatening." I'm not threatening.
2 I'm not American. I'm not from here. I
3 speak the way I was brought up to speak.

4 Q. I mean were you angry and upset, agitated?

5 A. Well, I mean the way I'm speaking now,
6 anybody -- anyone here goes: "Well, he was threatening."
7 "He was angry." I'm not. It is just because of the
8 way --

9 I was Nigerian born, I was raised in
10 Nigerian before I came down here, and that is the way my
11 tone sounds like, not that I'm threatening.

12 Q. Okay. It appears that Mr. Hogg actually talked
13 to or at least sent a document out to all the various
14 employees that attended the meeting.

15 A. Correct.

16 Q. And I'm assuming that you've reviewed all of
17 those.

18 A. Correct.

19 Q. Mr. Hogg also wanted to sit down and speak with
20 you as to what happened that day. What was your issue
21 with sitting down with him?

22 Because it appears in the record that you
23 were scheduled on August 17 to sit down and talk with
24 him and that did not happen, and then you were
25 rescheduled again on August the 25th. I mean what was

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1 the issue with sitting down and talking with him?
2 A. Prior to his calling me into a meeting, I had a
3 previous engagement with the Deputy Commander,
4 Mr. Williams, to appear for the first five-day
5 suspension at 2:00 o'clock.

6 Q. Now, which date are we talking about? What
7 date was that?

8 A. It was the day he asked me to come to this
9 meeting.

10 Q. The 17th?

11 A. Yes. That was the date I was supposed to
12 appear with the Union President, Mr. Joe Gonzales, in
13 the Deputy Commander's Office to appeal the five-day
14 suspension.

15 So, when he sent me that E-Mail, I
16 replied: "Listen, I have a previous engagement with the
17 Deputy Commander. I'm going to the Deputy Commander's
18 Office. I'm going to be late, so I cannot."

19 And he said: "Well, I directed you to come
20 to the meeting."

21 I said: "Listen, the President of AFG
22 Union and I are going to the Deputy Commander's Office.
23 We cannot."

24 But, unfortunately, the President,
25 Mr. Gonzales, was absent on the base. I was looking for

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1 him until almost like 2:00 o'clock and I couldn't get
2 him, so I quickly rushed back to the Deputy Commander's
3 Office to inform them that Mr. Joe Gonzales was not in
4 the office. And Mr. Kresten Cook was already in the
5 Deputy Commander's Office that day. He was waiting.

6 Q. Now, Mr. Gonzales at that point was your Union
7 Representative?

8 A. Correct. So, he said: "Well, you did not show
9 up in this meeting, so it is insubordination."

10 I said: "I already told you I have a
11 previous engagement with the Deputy Commander and I was
12 looking for the Union Rep during that time to go to the
13 Deputy Commander's Office. I couldn't find him. I
14 can't come to your meeting."

15 Q. So tell me what happened on August 25 when he
16 asked you to come to a meeting?

17 A. Probably he didn't ask me for a second time.
18 Probably not. The only time he asked me again was when
19 they said: "Well, we are going to propose a 14-day
20 suspension proposal."

21 Q. Now, my record shows that on August 25 at 1400
22 hours you had a scheduled mandatory meeting with
23 Mr. Hogg. You were supposed to be present and Ms. Nora
24 Ortiz was supposed to be present in the IED Chief's
25 Office. The record also indicates that apparently

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1 Mr. Hogg tried to locate you. He did reach you by phone
2 and you hung up on him.

3 A. Probably that was when I was looking for the
4 President that day, because that was the only occasion
5 he asked me to come to his office and I said "I have a
6 previous engagement with the --"

7 Q. And that was on the 17th. There was a second
8 engagement on the 25th.

9 A. I don't know what that was about.

10 Q. So you don't have any recollection of receiving
11 an E-Mail message on that particular meeting or that he
12 contacted you --

13 A. If he sent me an E-Mail, I probably responded
14 back to him. If I didn't respond back to him, then I
15 didn't get an E-Mail from him.

16 Q. I will ask Mr. Hogg when we get to him.

17 So you finally did apparently meet with
18 him on August 31st. Is that correct?

19 A. Most likely.

20 Q. And you did appear with your Union Rep?

21 A. Correct.

22 Q. And what happened during that meeting?

23 A. That was when I believe the new proposal -- I
24 believe the date was changed under the proposal.

25 Q. No, this is August 31st. This is still

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1 Mr. Hogg trying to figure out what happened on
2 August 6th as it related to your participation before he
3 made his --

4 A. Okay. He prepared questionnaires for me to
5 answer. So, I said: "Listen, I've learned this lesson
6 before." On the first five-day suspension, which was
7 presented the same way, they asked me a question, they
8 did not write down anything that I said. Ms. Nora and
9 Mr. Ron Howe just put check marks on the paperwork.

10 I said: "No, I'm not going" -- "If you
11 have questions for me to answer, give it to me in
12 writing, I will put it down in writing and I will give
13 it back to you."

14 Then Ms. Nora Ortiz said: "Are you saying
15 you are not going to answer the questions?"

16 I said: "I didn't tell you that. I said I
17 want it in writing. Instead of you asking me, telling
18 me to answer the question, I'd rather put it in writing
19 so it is on record, that what I said is on record, not
20 what you put down, because I learned my lesson the first
21 time."

22 She said: "Well, it's that way. Okay?
23 We ask you these questions, but we give you a written
24 question to answer."

25 Q. Did you, in fact, respond to Mr. Hogg's request

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1 for information?

2 A. Questions?

3 Q. Yes.

4 A. Yes, I did.

5 Q. Did you provide him detailed responses and
6 records?

7 A. Correct. I did. I gave him the written
8 answers.

9 Q. When did you respond to him?

10 A. Within 24 hours or 48 hours.

11 Q. Yeah, I think I saw that. I was trying to
12 locate it. I think it was on or around the 1st of
13 September.

14 All right. So you were proposed for a
15 30-day suspension?

16 A. Right.

17 Q. And the original letter was dated the 23rd of
18 September -- correct -- and it was incorrect.

19 And I will just show you my copy of it so
20 you can confirm that this is, in fact, the letter we are
21 talking about.

22 A. Yes.

23 Q. Okay. And there was an error in the letter --

24 A. Correct.

25 Q. -- about your grade.

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1 A. Correct.

2 Q. The letter was reprinted, apparently correcting
3 it.

4 A. Correct.

5 Q. My record seems to reflect that you signed for
6 this letter on October the 1st.

7 A. Correct.

8 Q. And I will let you take a look at that as well
9 just to make sure that we are talking about --

10 This is your signature and you signed for
11 it on October 1st?

12 A. Yes.

13 Q. How long did you understand, when you signed
14 for the letter, that you had to respond to the proposed
15 disciplinary action?

16 A. Well, I think it was stated on the bottom,
17 maybe the last paragraph, that it gives me 15 days or
18 so. I'm not sure exactly.

19 Q. Well, now, the letter actually says "five
20 days".

21 A. Yes. Correct.

22 Q. Did you, in fact, respond within the required
23 time limit, which would have made it on or around the
24 6th of October?

25 A. I asked for an extension.

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1 that," that does not give me enough time to respond.

2 I asked, I said: "Listen, one, you did
3 not change the date of the proposed -- the first
4 proposed for 30-day suspension. The second one, that is
5 the second mistake."

6 Q. I mean that is just a change in date. And the
7 way the letter reads --

8 A. If I give you something today and I ask to give
9 you a five-day suspension, if the date was wrong and you
10 bring it back to me tomorrow, that day would --

11 Q. Okay. But the letter itself says "within five
12 calendar days of your receipt of this letter,"
13 regardless of what the date is.

14 A. It takes me time to go to the Union, to ask
15 them a set of questions for my staff to answer, ask the
16 Union a set of questions for the security to answer. I
17 can't do that in five days.

18 Q. Okay. So, basically, you did not respond?

19 A. Yes, I did not, because the Union Rep told
20 him: "You are breaking the agreement between CCAD and
21 the Union Agreement."

22 Q. So, we have kind of talked about why Mr. Hogg
23 proposed the action. So, on December 9, Mr. Cook, based
24 on the record as it was established, sustained the
25 "insubordination" charge and the "creating a

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1 disturbance" charge, but he mitigated the penalty to 14
2 days.

3 A. Without my input or the Union input.

4 Q. Well, you had the opportunity.

5 A. Yes.

6 Q. According to the Table of Penalties, the charge
7 of "insubordination" as a second offense carries a
8 penalty ranging from a five-day suspension to removal
9 from the Federal Government. "Creating a disturbance"
10 carries a range of penalties from a five- to ten-day
11 suspension for a second offense.

12 I mean what do you believe should have
13 been done with regards to the issues?

14 A. Well, when an employee made a mistake, you are
15 supposed to call that employee into the office and
16 counsel him first or give him a Letter of Reprimand, not
17 just suspend me five days or 30 days for a second
18 offense.

19 You already put out the agreement as if
20 there is no flexibility. There should be. If I make a
21 first offense, you are supposed to come into the office
22 and give me a counseling or a Letter of Reprimand. They
23 did not do that.

24 First offense is a five-day suspension.

25 Second offense is a 14-day suspension. The intention is

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1 Q. -- or Ms. Ortiz, the personnelist, called a
2 security guard, what was the date that that happened?

3 A. On June 29 -- I mean June 5, 2009.

4 Q. And what document were you just looking at to
5 see that?

6 A. Department of --

7 MS. GAUL: The "Decision on Proposed
8 Suspension" notes that he received the "Proposal" letter
9 June 5, 2009.

10 MR. MUIR: Okay. Thank you.

11 Q. (BY MR. MUIR) So when you received your
12 "Proposal" letter from Mr. Howe --

13 A. Yes.

14 Q. -- a security guard was present, called by
15 Ms. Ortiz?

16 A. Two securities guards with side arms.

17 Q. Two security guards were called by Ms. Ortiz?

18 A. Yes.

19 Q. Now, is that the only day that you are
20 complaining about a security guard being called to be
21 present during a meeting that you had with management?

22 A. No. There was a second occasion.

23 Q. When was the second occasion?

24 A. When Mr. Kresten Cook was making the decision
25 to send me home for 30 days, two security guards were

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1 A. Correct.

2 Q. And, so, you were following Mr. Howe's schedule
3 on that day; correct?

4 A. Correct.

5 Q. In looking at the second attachment, right in
6 front of that, where it says on the top "Edited by James
7 Green on July 15" --

8 A. Correct.

9 Q. -- what is that document? Is that the PBL
10 Meeting notes for July 15?

11 A. Correct. And if you look at the last statement
12 by Ron Howe --

13 Q. Hold on, sir. Okay. Right next to your name,
14 it says "Murphy Junaid - no."

15 A. "No." Correct.

16 Q. What does "no" mean?

17 A. During the meeting, the facilitator asks
18 questions -- whether you have any comment to make, maybe
19 on your project, you know, progress of your project.
20 "Do you have anything to say?" "No, I don't have
21 anything to say" -- just like anybody else.

22 Q. So you had no comment. On that day, you had no
23 comment; correct?

24 A. Yes. Nothing.

25 Q. Now, down where it says "Ron Howe" --

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1 A. Yes.

2 Q. -- the first sentence says: "Gary taking over
3 August as Supervisor. Ron will be assisting in
4 transition."

5 A. Correct.

6 Q. So that means that Mr. Howe actually said that
7 he would be assisting in the transition. Is that right?

8 A. That's what is stated.

9 Q. Now, would it be fair to say that the first
10 week that Mr. Hogg was a supervisor, the first week of
11 August 3rd --

12 A. But do you have --

13 MS. GAUL: Let him finish the question.

14 MR. MUIR: Can I finish my question?

15 MS. GAUL: Let him finish the question.

16 Q. (BY MR. MUIR) The first week in August,
17 starting with August 3rd, where Mr. Hogg was the
18 supervisor, would it be fair to say that that would be a
19 transitional time period for Mr. Hogg?

20 A. I have no idea. I didn't make the decision.

21 Q. So, if Mr. Howe was assisting Mr. Hogg the
22 first week of August, would that be --

23 A. "Transition" means "moving". It doesn't mean
24 coming to sit on August 6 as a supervisor. That's the
25 difference between "transition".

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1 Q. You also mentioned, I think in the beginning,
2 that you have, I guess, 13 years of Federal Government
3 experience and nine years at CCAD?

4 A. Correct.

5 Q. And where were the other four years served?

6 A. Red River Army Depot.

7 Q. Is it correct that you were fired for
8 threatening a supervisor and making false, malicious
9 statements against coworkers and supervisors at the
10 Red River Army Depot in 1989?

11 A. That was an allegation. The same thing
12 happened. I was employed as a -- with Master's Degree,
13 training 7 to 9 to 11. I got my promotion 7 to 9. 9 to
14 11, the Director sat on my promotion for six weeks. I
15 filed an EEO Complaint against him --

16 Q. Okay.

17 A. Let me finish.

18 Q. Hold on. Answer my question. You will get a
19 chance --

20 THE INVESTIGATOR: You brought it up. Let
21 him finish.

22 A. You brought it up. I'm going to explain
23 myself.

24 Q. (BY MR. MUIR) Go ahead, sir.

25 A. He sat on my promotion for six weeks. I filed

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1 anybody -- not a single thing. Abuse? Shoot.

2 MR. MUIR: That is all I have.

3 MR. JUNAID: You didn't -- you didn't
4 check my other employment agencies?

5 THE INVESTIGATOR: Ms. Gaul.

6 MS. GAUL: Okay. We will go over it.

7 E X A M I N A T I O N

8 BY MS. MALINDA GAUL:

9 Q. Tell me more about this school district that he
10 just mentioned.

11 A. There is nothing to tell. I substituted for a
12 few days. That's all.

13 Q. Were you hired by them as an employee?

14 A. Not hired. Just a substitute. Just call in
15 and they say: "Hey, we need a substitute teacher." And
16 I did that. That is all.

17 Q. So his question to you was: Were you
18 terminated from that school district?

19 A. I wasn't terminated. They only call you when
20 you are needed. You know, if you know anything about
21 substitute teaching, they call you when they need you.
22 That is all. There was no termination. There was no
23 employment.

24 Q. Okay. Let's talk about your employment. After
25 you got your Master's Degree, where did you go to work?

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1 A. Red River Army Depot.
2 Q. How long did you work there?
3 A. August of -- most likely February 5, 1985 to
4 11/89, I believe.
5 Q. Where did you go after that?
6 A. I went to Dallas and worked for, most likely,
7 Uniden Manufacturing.
8 Q. How long were you there?
9 A. Maybe two years.
10 Q. Where did you go after that?
11 A. I went to Income & Products and I worked there,
12 I want to say, maybe another two or three years.
13 Q. Okay.
14 A. Then I came back to Corpus Christi Army Depot.
15 Q. Okay. Now, you had to apply for your position
16 at Corpus Christi Army Depot. Is that correct?
17 A. Correct.
18 Q. And then you were accepted for employment
19 here. Is that correct?
20 A. Correct.
21 Q. And the Corpus Christi Army Depot would have
22 had access to any records at the Red River Army Depot.
23 Is that correct?
24 A. Most likely.
25 Q. So, did anybody ever talk to you about the

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1 responding, that there were elevated voices, that there
2 was hostility between the two individuals. And at some
3 point, Mr. Junaid had left the conference room and spoke
4 with security, and then after that had returned and the
5 meeting concluded after that.

6 But there had been a rather serious
7 disruption to the meeting because it occurred at the
8 beginning of the meeting and the feedback from most of
9 the people involved was very little came out of that
10 meeting because most of the people were on edge because
11 of the incident.

12 Q. Now, who normally attends these weekly
13 meetings?

14 A. PBL's are primarily for our industrial
15 engineering staff to discuss, you know, current
16 business, outlying tasks, and so forth.

17 But they are absolutely open meetings.
18 So, an engineer of mine can bring anybody in or invite
19 anybody in or if anybody has an issue with a project
20 that is being worked in Industrial Engineering, they may
21 appear at the PBL meeting.

22 Contrary to Mr. Junaid's comments earlier,
23 the Industrial Engineering Chief is not the facilitator
24 of the meeting. That is a revolving schedule that does
25 not relate necessarily to the Acting position for IED

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1 Q. -- if someone is not there, it moves down to
2 the next --

3 A. Everybody moves up.

4 Q. What did you understand Mr. Howe was there for?

5 A. Mr. Howe -- and I understand there's some
6 confusion in this. Mr. Howe was the Temporary IED Chief
7 prior to me taking the position. He had been acting
8 for, I believe, eight or nine months prior to me taking
9 the position. So, it had been a long vacancy. His role
10 at the time that this incident occurred was that he was
11 still acting until I took responsibility of the
12 position.

13 I was in new employee orientation until
14 approximately the 6th. And, you know, at that point I
15 was planning, in fact, the attend this first meeting as
16 my first action as IED Chief; but because I had further
17 requirements from HR, I was not able to attend.

18 So, at that point, you know, I believe
19 that Ron Howe was still acting because I had not
20 officially come in and assumed duty at my desk; but I
21 don't know the legalities of whether or not he was
22 officially acting or not in that capacity. I cannot
23 testify on that.

24 Q. Can you understand why the Complainant was
25 confused, in light of the fact that you had been

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1 assigned into the permanent position, as to withhold
2 have been the Acting that day?

3 A. I can understand the confusion.

4 Q. And what was the purpose of Mr. Howe being in
5 the meeting, to the best of your understanding?

6 A. From the statements that I got from both
7 Mr. Howe and Ms. Ballard, the two primary things that he
8 had were -- we had just gone through an ISO audit and we
9 had a finding in Industrial Engineering specifically
10 that was a negative finding for Industrial Engineering.

11 Q. What is an "ISO audit"?

12 A. The "ISO audit" is basically a compliance
13 audit. There's a set of business practices that the
14 Depot is supposed to follow. And the Auditing Team came
15 in and had reviewed documentation of project work for
16 Industrial Engineering and found it insufficient, so we
17 were issued a minor finding. And Ron Howe was supposed
18 to come in and discuss that issue with Industrial
19 Engineering.

20 He also had another role here. I don't
21 know if you would call it an official role; but we had a
22 requirement that we had each employee submit safety tips
23 or safety findings. And Ron Howe maintained the
24 database record of all the safety findings, and, so,
25 every meeting he would present those findings to the

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1 group or report on what he had received.

2 Q. Now, where is Mr. Howe now? What position does
3 he hold?

4 A. He's a staff position under DES as a Senior
5 Engineer. I'm not sure of his grade.

6 Q. Now, to the best of your understanding, did
7 Mr. Howe, in fact, have an opportunity to provide the
8 ISO audit information and safety findings in the
9 meeting? And if you don't know, that is fine.

10 A. I'm not certain; but from some of the comments
11 that were received on the questionnaire is -- is that I
12 believe it was abbreviated, that they did not cover all
13 the topics because, again, the meeting was interrupted.

14 Q. Now, what is your understanding of why
15 Mr. Junaid called security?

16 A. I don't have any understanding of that. That
17 was, you know, Mr. Junaid's action and I don't really
18 understand it.

19 Q. Now, were these CCAD security people? Were
20 they Base security people?

21 A. They are Army personnel, CCAD Civilian Service
22 personnel that are stationed in Building 8. I don't
23 know how many of them -- I believe there are five to six
24 that are stationed in Building 8.

25 Q. So these are individuals that are called out if

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1 again, we share a large complex. His office is a subset
2 of that complex. He proceeded to drag the file cabinets
3 out of his office area. He proceeded to pull files out
4 of the file cabinet and put them on an adjoining table
5 where they spilled over on the floor and were
6 disorganized. The files were part of our KBSI records
7 that we maintain for our work with the Depot. He
8 dragged them out and left them in an adjoining office in
9 the middle of the floor in disarray.

10 Ms. Ballard came into the office and
11 confronted Mr. Junaid and said something to the effect,
12 you know: "Murphy, what are you doing?" And Murphy
13 shouted back at her something to the effect that, you
14 know, they don't have the right to do these changes to
15 his work space. And he actually pushed the door that
16 enters into the area into Ms. Ballard.

17 At that point, I had three employees that
18 witnessed that action. I had my employees draft up
19 statements of that incident to give to Mr. Howe just to
20 document the event. After that point, I wasn't involved
21 anymore.

22 Q. So you were not involved in any final action?

23 A. (Nodded.) The disciplinary action, other than
24 to provide the statements. I think two or three weeks
25 later we were asked to provide not only statements, but

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1 some medical issues.

2 A. That's correct.

3 Q. You initially, it appears, tried to schedule it
4 for the 17th of August.

5 A. Without checking my records, but I believe that
6 is correct.

7 Q. And do you know why the Complainant did not
8 show up?

9 A. I believe his issue was that he did not have
10 his Union Representative that he had chosen to be
11 present. As I recall -- and I may be confusing dates
12 here because, again, there were about four incidents of
13 this, where I tried to establish this meeting.

14 When I had set the meeting time, I
15 contacted CPAC because I wanted to have a CPAC
16 representative there because it was, frankly, the first
17 time I had gone through what I believed might escalate
18 to an employee action and did not know the process, did
19 not know the procedures, and wanted somebody there to
20 help guide me.

21 Mr. Junaid did not show at the time it was
22 set. I called him on the phone and asked him if he was
23 going to attend. I believe he said "No". I asked him
24 why. He said -- There were two different times I had
25 that conversation. Once he said: "My Union

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1 Representative is not here; and, therefore, I will not
2 attend." The other, he just said "No" and hung up.

3 I contacted or talked to Ms. Ortiz at that
4 time about Union representation and she informed me that
5 Mr. Junaid had no right to a specific Union
6 representative and that as long as the Union was able to
7 provide representation that the meeting could be
8 conducted with that representative.

9 So, I informed Mr. Junaid of that and
10 insisted that he attend the next scheduled meeting.

11 Q. So you had several difference instances where
12 you attempted to meet with the Complainant.

13 A. Yeah.

14 Q. My record seems to reflect that you finally did
15 meet with him on August 31st.

16 A. I believe that is correct.

17 Q. Tell me about that meeting.

18 A. At that meeting, I had presented a list of
19 follow-up questions, because Murphy had provided a
20 written response to the questionnaire that initially
21 came out. The questionnaires of his as well as the
22 other staff members that were there at the meeting led
23 to a number of follow-up questions that I wanted to ask
24 him regarding the conversations that he had with
25 Mr. Howe and what actions he took during that meeting.

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1 in that section at IED?

2 A. Yes, there are peer industrial engineers in
3 that division.

4 Q. Do you have any reason to believe that any of
5 the similarly-situated engineers were treated more
6 favorably than the Complainant in the workplace?

7 A. No.

8 Q. Let's talk about the disciplinary action, which
9 is primarily what is at issue here. What was your role
10 in the disciplinary action?

11 A. I was Deciding Official.

12 Q. How did you learn of the Complainant's conduct
13 and behavior that was the basis of the proposed
14 suspension?

15 A. Most of the information was through the process
16 of the Decision Letter that was submitted by Mr. Hogg.
17 I received the phone call that they -- when Mr. Howe was
18 asked to leave the meeting, that we discussed earlier.

19 Q. Why was Mr. Howe at the meeting, to the best of
20 your understanding?

21 A. If I recall correctly, he was relaying some
22 safety information and safety tips down to the Team
23 Meeting in Industrial Engineering. He probably was also
24 doing some work as -- because we were transferring over
25 leadership of that office to Gary Hogg and Mr. Howe was

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1 with the Table of Penalties, those kinds of things.

2 Q. So you basically walked through the Douglas
3 Factors in making your decision?

4 A. Yes.

5 Q. Who in Personnel did you work with or Legal
6 Office did you work with?

7 A. I believe Nora Ortiz was the main person I
8 worked with.

9 Q. What advice did she give you?

10 A. Nora helps with, you know, the -- we discuss
11 the case. She provides me the blank Douglas Factors.
12 We go through them. We work together in writing the
13 Decision Letter. But she does not actually give me
14 advice, you know.

15 Q. Did you actually go through the Table of
16 Penalties and that information as well?

17 A. Yes.

18 Q. What made you decide to go from the proposed
19 30-day suspension to a 14-day suspension with regards to
20 the Complainant?

21 A. Instead of trying to recall it out of my brain,
22 I think the best is the letter itself.

23 Q. The Decision Letter?

24 A. The Decision Letter, I can refer to that.

25 THE INVESTIGATOR: Have you got it?

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1 it's the employees of that division, the administrative
2 support, the staff within that division.

3 Q. In your mind, I mean, would it be unusual for
4 someone that maybe doesn't work in that area to actually
5 come to a meeting?

6 A. It happens at the directorate level fairly
7 often. I wouldn't consider it unusual for visitors to
8 come in on division meetings.

9 Q. Do they have to be invited or do you have to
10 receive any specific notification for them to?

11 A. No. As a matter of fact, this is one of the
12 things that the PBL, the Performance-Based Leadership
13 people encourage -- for the Director to go by and visit
14 the different divisions in their Home Team Meetings.

15 Q. Now, if I understand correctly, you got a call
16 that particular day about a disturbance in this
17 particular meeting. What did you understand happened?

18 A. I was on the other side of the Base and I
19 received a call from one of the security personnel and I
20 just got a real quick rundown of what was going on. He
21 mentioned that Mr. Howe was asked to leave the meeting,
22 and then security was called and they were -- basically,
23 the question was: "Is it okay for Mr. Howe to be at the
24 meeting?" And I said: "Sure."

25 Q. So you told security it was okay for him to be

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1 at the meeting?

2 A. Yes, I did.

3 Q. So, from your understanding, once security
4 informed the Complainant that it was okay for Mr. Howe
5 to remain in the meeting, was he allowed to stay?

6 A. It was my understanding he was.

7 Q. Now, there was a comment on the Security Report
8 indicating that there was a history between the
9 Complainant and Mr. Howe. Do you happen to know what
10 that comment is alluding to?

11 A. Not exactly what that comment is alluding to;
12 no, I don't.

13 Q. I will look at it and see if I can give you a
14 little more. (Perused documentation.) It is a little
15 unclear to me as to who actually put the comment on
16 there. It says: "There's a history between
17 Howe and Junaid."

18 "In the past" -- a Military Police
19 Report -- "a co-worker, Ms. Ballard, reported that
20 Junaid had threatened her because of furniture movement"
21 and stuff like that.

22 A. Okay. That's -- I guess that is when Mr. Howe
23 was the Acting Division Chief and that there was a
24 previous incident about moving some files.

25 Q. Did you actually get involved in that or did

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1 A. Yes.

2 Q. Were you present for that meeting?

3 A. Yes, I was.

4 Q. Who normally facilitates those weekly meetings?

5 A. Normally it is facilitated -- well, the
6 facilitator's job usually rotates amongst the employees
7 on a monthly basis normally. On that particular
8 meeting, I think Tom Green was the acting -- well, he
9 was like the facilitator for that month. He wasn't
10 there that day.

11 And I think the next in line was
12 Mr. Junaid to be the facilitator. I wasn't aware of
13 that until we were in the meeting; but that really
14 didn't have a whole lot to do with anything.

15 Q. Did you attend that meeting with the intent of
16 leading or facilitating the meeting?

17 A. No, I did not.

18 Q. At that point had you relinquished your
19 responsibilities as the Acting Chief?

20 A. Yes, I had.

21 Q. Who normally would attend those weekly
22 meetings?

23 A. Normally it's the entire division or branch.
24 It is a division, in the case of Industrial Engineering.
25 They don't have multiple branches, so it is just the

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1 information. We had incurred some shortcomings. We had
2 some issues that we had to address and I had addressed
3 those issues. I had discussed it with everyone and we
4 had come up with the fixes for what we needed to do; but
5 I needed to brief everyone, you know, about what
6 happened during the ISO audit and exactly what our
7 corrective actions were, and then what the schedule was
8 for that.

9 Q. Did the Complainant ask you why you were there?

10 A. No.

11 Q. Tell me what happened during the meeting that
12 you recall.

13 A. Well, when Mr. Junaid came in -- and, of
14 course, he got aggressive immediately, so I moved over
15 to another chair. He said: "Well, you are not invited.
16 You can't come here because you are not invited to be in
17 here."

18 And I said: "Normally, this is just not
19 the way it is. And besides that, I work for the
20 Directorate and I need to pass on this information and
21 that is the way it needs to happen."

22 And then he said: "Well, I did not invite
23 you" and "This is my meeting, and, so, you get out of
24 here. I don't want you here anymore." And he kept
25 insisting.

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1 training or something. He was -- he was just not there
2 that day.

3 He said: "Well, give it to Mr. Hogg and
4 let him" -- you know, "so that he will be aware of what
5 is going on, and then he can look into whether we need
6 to generate some action or not."

7 Q. Now, did you actually ever talk to security in
8 reference to the issue?

9 A. I talked to them when they were there in the
10 meeting; but other than -- you know, going down to their
11 office and talking to them, no, I didn't.

12 Q. So, when security came into the meeting, what
13 did they do?

14 A. They just basically said: "What's going on?"
15 And we kind of explained it to them. And they said:
16 "Well, okay. We don't see a problem here."

17 And I don't -- I think -- I think they
18 asked Mr. Murphy -- or Mr. Junaid to come out in the
19 hall and chat with them or something. I don't -- That
20 part of it I don't -- I just don't remember. I haven't
21 reviewed it or anything, so I don't know.

22 Q. Have you ever had any other incident between
23 yourself and Mr. Junaid?

24 A. Well, there's been several issues. Well,
25 before that happened, we had a meeting. I know he had

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1 had an issue with Mr. Tom Green -- and that is when I
2 was still the Acting -- and there was some sort of issue
3 that came up.

4 So, I set up a meeting for Mr. Junaid and
5 for Tom Green to come in and meet with us -- I think it
6 was scheduled for 8:00 o'clock in the morning -- to
7 discuss the issues, you know, so we could get it
8 straightened out.

9 So the morning came of the meeting and Tom
10 Green and I were sitting in my office and we were
11 talking, just in general, just about everything. And
12 Mr. Murphy came to the meeting; but he walked in the
13 door, he looked around, he turned around and he left and
14 he never came back to the meeting.

15 And Tom Green said, you know: "What's
16 going on?" And I said: "I don't know, but let me just
17 see if I can find out and then we will set up another
18 meeting."

19 So, I went to Mr. Junaid's office, which
20 he shares with several other people. I went to
21 Mr. Junaid's desk and I said, you know: "Murphy, you
22 know, if we don't talk about these things" --

23 Because he never discusses anything with
24 anyone. He will not talk to you. He will not answer a
25 question. When you pass him in the hall, you can say

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1 "Hello", "Good Morning", whatever you want to do, and
 2 he will never -- he acts like you are just not there.
 3 And this is not with just me. This is with a lot of
 4 folks -- almost everyone that I know, as a matter of
 5 fact.

6 But he blew up right there. When I
 7 mentioned to him that "We need to talk about this," he
 8 got real excited, he left the room, and then he came
 9 back in the room and he grabbed his telephone and he
 10 called security, and then security came up there. And
 11 then when security came in, they said: "What is the
 12 problem?"

13 Because he said I was harassing him. In
 14 no way could any of my actions been construed as
 15 harassing, you know, because all I was doing, I just --
 16 I just mentioned to him that "If we do not talk about
 17 these issues, we will never get them resolved."

18 So, anyway, the security came in and
 19 security talked to us both about it, and then they
 20 said: "Look, we don't see a problem here."

21 And, again, they said: "We need to talk
 22 to Mr. Murphy and get this figured out." And there
 23 again, I don't know exactly what occurred after that. I
 24 know that he went with the security folks and talked to
 25 them or something.

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1 little bit later.

2 A. Yeah.

3 Q. So why did the Union decide not to respond at
4 all?

5 A. Well, it wasn't our decision.

6 Q. Whose decision was it?

7 A. It was his decision.

8 Q. So Mr. Junaid made this decision not to reply
9 at all?

10 A. Yes, ma'am, because of that, because of that
11 questionnaire that we were not able to submit and get
12 statements from the employees that were involved in that
13 meeting.

14 THE INVESTIGATOR: Ms. Gaul, this was your
15 witness.

16 E X A M I N A T I O N

17 BY MS. GAUL:

18 Q. The record shows that you requested an
19 extension of time and were granted a short extension of
20 time. Did you make a second request in order to do the
21 questionnaire?

22 A. Yes. Because the first one was because of
23 administrative error. See? Because I was going to
24 throw it out, because how can you take any kind of
25 action on an employee without the proper administrative

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1 And the response I got back from that,
2 from the second request, was that it was not up to
3 Mr. Hogg. It was up to Mr. Kresten Cook to decide to
4 give us the second extension or not.

5 Q. Okay. Did you go to Mr. Cook then?

6 A. No, ma'am.

7 Q. Why not?

8 A. Because, you know, they won't let us, I mean, I
9 guess, you know. I mean it was up to him to ask for
10 that extension, I mean. You know, they took -- I
11 think --

12 I'm not too sure if he answered or not --
13 Mr. Cook; but I think something happened on that
14 E-Mail. I don't have it in front of me today where I
15 could actually tell you, you know, what was the answer.

16 But because CPAC was involved, there was
17 no -- I couldn't go forward.

18 Q. Were you at the final meeting where Mr. Junaid
19 got the Notice of Decision on this issue?

20 A. Yes, ma'am. I was there when he actually got
21 the Decision and was escorted, I think. I think that is
22 when they escorted him -- if that's the same one you are
23 asking.

24 Q. Because Mr. Hogg gave him the proposed action.

25 A. Right.

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1 Q. Do you know why that is?

2 A. My opinion is that he is a bully. And you have
3 to be very careful how you act around him because you
4 can see his demeanor change and you just choose not to
5 have that happen. So, I just kind of stayed out of the
6 line of fire.

7 Q. Has that ever happened to you --

8 A. Yes.

9 Q. -- when his demeanor has changed?

10 A. Yes.

11 Q. When did that happen?

12 A. We had an incident where he was moving a file
13 cabinet. And I went into the office because somebody
14 had come to get me. And my mistake was not in calling
15 security, but going in and asking him to stop moving the
16 file cabinet. It was heavy and he was moving it by
17 himself. And I later found out that he had thrown the
18 paperwork out on the floor; but at the time, I didn't
19 know that. I thought he was just moving it with it in
20 there.

21 But, anyway, he screamed at me and told me
22 to go get the Director. I told him he was acting like
23 my granddaughter.

24 Q. So he actually yelled at you?

25 A. Actually, my granddaughter never acted that

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1 bad. What?

2 Q. He actually yelled at you?

3 A. Yes.

4 Q. What was he upset about?

5 A. That the file cabinet had been moved into -- by
6 the desk of the person that shares the office with him
7 and that we did not ask his permission.

8 Q. Who actually directed that the file cabinets be
9 moved?

10 A. I was in and talking to the contractors and I
11 asked Mr. Lundgren, the one that shares the office with
12 him, if he had a problem with our moving the file
13 cabinet by his desk and he said he did not have an issue
14 with it.

15 Q. Was it in the Complainant's work space?

16 A. Well, they shared an office together; but it
17 was an office large enough for more than two employees
18 and it did not restrict the flow of traffic. There was
19 plenty of room for it there. I think Eric's comment was
20 it didn't matter if he had a partition blocking the flow
21 of traffic or a file cabinet. He didn't care what was
22 there.

23 Q. Was security called that particular day?

24 A. Not at the time. Later, because I let my boss
25 know what had happened, that I think Mr. Howe called --

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1 when Ron was no longer -- Mr. Howe was no longer the
2 supervisor and I believe that Mr. Hogg was in training
3 at the time.

4 So, Ron, because Mr. Cook needed Ron to be
5 at the meeting to give us some information, Ron was also
6 going to chair the meeting. And I was aware that he was
7 going to be chairing the meeting.

8 Q. Who asked him to chair the meeting?

9 A. He and I had discussed it. And he had done it
10 the week before. And I said: "Well, you are going to
11 be there. Just go ahead and chair it."

12 Tom Green was actually the one that was
13 the acting -- it was his rotational turn at that time.

14 So Ron was sitting at the head of the
15 table, ready to chair the meeting. And Mr. Junaid
16 walked in and he goes: "I'm going to do this." And,
17 so, Ron moved his chair.

18 And then when he started the meeting, that
19 is when Mr. Junaid immediately told him he was to leave,
20 that he wasn't invited. And I said: "Well, actually, I
21 did invite him. He is here at Mr. Cook's direction."

22 Q. So you did speak up and say that?

23 A. I did. But I was -- it was very upsetting to
24 me. And I ended up, because the confrontation continued
25 on with him continuing to insist that Mr. Howe left,

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1 that I got up and I left the meeting.

2 Q. Did you slam the door on your way out?

3 A. No.

4 Q. I just heard that a couple of times today.

5 A. Oh. Well, if I did, I didn't do it

6 intentionally. I sure don't recall slamming it.

7 Q. So why did you leave?

8 A. It was recent. It was still fresh with the
9 P.I.I. release and I was having to deal with my requests
10 to get some information released to me, and then him
11 acting --

12 I've -- I've never been in a meeting where
13 I have ever seen anybody act as rudely as he was acting
14 to Mr. Howe. It was just -- I have been out here 30
15 years and I have never seen behavior as horrible as what
16 I was witnessing.

17 So, in addition to what I was already
18 going through, it was just extremely upsetting. So, I
19 walked out and I was trying to decide whether to call
20 security myself, so I went down to the Director's Office
21 and I had Mr. Cook's secretary call him on his cell
22 phone and I was explaining to him what was going on when
23 security walked into his office. And it took me by
24 surprise and I go: "Oh, securely is already here," and I
25 hung up with him. And I said -- I didn't even ask them

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NORA J. ORTIZ

EXAM/INVEST

1 Q. And how long have you been in that position?

2 A. Since 2005.

3 Q. And what organization are you currently
4 assigned to work out of?

5 A. Civilian Personnel Advisory Center, Corpus
6 Christi Army Depot.

7 Q. And just kind of briefly tell me what it is you
8 do in your position.

9 A. I'm a Management Employee Relations Specialist
10 and provide advice to the managements regarding
11 disciplinary actions and any labor or negotiation issues
12 that come up.

13 Q. And who do you report to directly?

14 A. My immediate supervisor is Brenda Thomas.

15 Q. And how long have you worked for Ms. Thomas?

16 A. She's been my supervisor for approximately
17 three years.

18 Q. And who is your second-level supervisor?

19 A. Cynthia Mizes.

20 Q. And how long have you worked for Ms. Mizes?

21 A. Probably about the same amount of time, about
22 three years.

23 Q. How do you know the Complainant in this case,
24 Mr. Junaid?

25 A. Mr. Junaid works in the Directorate for

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NORA J. ORTIZ

EXAM/INVEST

1 A. The date that we start counting for the reply
2 period is the date that he signs acceptance of the
3 letter. So, we don't count until the date that he
4 actually signed and acknowledged receipt of that letter.

5 Q. Do you recall having any discussions either
6 with the Complainant or his representative about some
7 information that they wanted to gather in order to make
8 Mr. Junaid's reply to that proposed action? Do you
9 recall?

10 A. Normally when I get a request for information
11 for the case file, they just send it. They don't
12 normally talk to me. They either send it by E-Mail or
13 send it on a Union form with a Union heading on it.

14 Q. If I can tell from a tracking prospective, it
15 appears that the Complainant signed for the letter on
16 the 1st of October.

17 A. Okay.

18 Q. With the letter being five days notice to make
19 that response, that would have made it on or around the
20 6th of October.

21 A. M'hmm. (Nodded affirmatively.)

22 Q. It appears that he did, in fact, get an
23 extension of time to respond until the 15th of October.
24 Do you recall that?

25 A. Yes, I do recall that.

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1 Q. Okay. Who made the decision to extend the
2 time?

3 A. The request for -- and, in fact, it is posted
4 as part of the letter. Mr. Junaid was told on the
5 letter -- and I don't recall which paragraph it is, but
6 it is towards the end of the letter -- that any requests
7 for extension are made to the Deciding Official. So,
8 the request for extension was made to Mr. Cook.

9 Q. So the only thing that you would have been
10 informed of is if he wanted to review the file.

11 A. Well, normally what happens is the Deciding
12 Official will call me and tell me that "I have a request
13 for an extension. Do you think it is okay?"

14 And I usually tell them: "You are the
15 Deciding Official. If you feel it is okay to grant it,
16 go ahead and grant it and, if it is reasonable, we can
17 move forward with that."

18 Q. It appears in this particular case that the
19 Complainant was, in fact, granted an extension until the
20 15th of October.

21 A. Okay.

22 Q. Okay? Do you remember or do you have any
23 recollection of receiving any further requests for
24 extension --

25 A. None.

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